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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,413	10/25/2004	Seiji Kagawa	KAGAWA I	6666

1444 7590 07/21/2006

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WASHINGTON, DC 20001-5303

EXAMINER
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O HERN, BRENT T

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/512,413

Applicant(s)

KAGAWA ET AL.

Examiner

Brent T. O'Hern

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 11-35 and 38-65 is/are pending in the application.
- 4a) Of the above claim(s) 11-35, 38-62, 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 22 March 2006, 10/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election **without traverse** of Group I, claims 1-8 and 63 in the reply filed on 23 June 2006 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-8 and 63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "**easy-to-straight-tear**" in claims 1-8 and 63 is a relative term which renders the claim indefinite. The term "easy-to-straight-tear" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. An article may be easy to tear for one person but difficult to tear for another person.

Clarification and/or correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Littmann et al. (US 5,512,337).

Regarding claim 1, Littmann ('337) teaches an easy-to-straight-tear thermoplastic resin film (*col. 6, ll. 53-67 and l. 5*) having substantially parallel linear scratches (*col. 8, l. 32 and col. 9, l. 3*) formed on at least one entire surface (*col. 6, ll. 53-67*),

The phrase "whereby it is easily torn substantially straight from any point along said linear scratches" in claim 1, lines 3-5 is given little patentable weight since the applicant is introducing **use limitations** into the product claims (*see MPEP 2173 (q)*).

Regarding claim 6, Littmann ('337) teaches a film further having a multiplicity of uniformly located fine penetrating and/or non-penetrating pores (*col. 5, l. 56 – col. 6, l. 7*).

Regarding claim 7, Littmann ('337) teaches a film wherein the film is a single-layer film or a laminate film (*col. 6, ll. 53-57*).

Regarding claim 8, Littmann ('337) teaches a film wherein the laminate film comprises at least one film layer having the linear scratches, and a sealant film layer (*col. 5, ll. 56 to col. 6, l. 7 and col. 6, ll. 53-57*).

4. Claims 1 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kai (US 4,543,279).

Regarding claim 1, Kai ('279) teaches an easy-to-straight-tear thermoplastic resin film (*col. 3, ll. 20-28*) having substantially parallel linear scratches (*col. 5, ll. 13-15 and FIG-4, #3*) formed on at least one entire surface (*col. 5, ll. 21-29*),

Regarding claim 7, Kai ('279) teaches a film wherein the film is a single-layer film or a laminate film (*col. 3, ll. 21-28*).

Regarding claim 8, Kai ('279) teaches a film wherein the laminate film comprises at least one film layer having the linear scratches, and a sealant film layer (*See col. 3, ll.*

*21-28 wherein the additional layer of the laminate is interpreted as being the sealant layer.).*

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Littmann et al. (US 5,512,337) in view of Kai (US 4,543,279).

Littmann ('337) teaches the film discussed above, however, fails to expressly disclose wherein the depth of the linear scratches is 1 to 40% of the thickness of the film (0.1 to 10  $\mu\text{m}$ ), wherein the width of the scratches are 0.1 to 10  $\mu\text{m}$ , wherein the intervals of the linear scratches are 10 to 200  $\mu\text{m}$  and wherein the fine pores have an average opening diameter of 0.5 to 100  $\mu\text{m}$ .

However, Kai ('279) teaches wherein the depth of the scratches/holes is determined by the particle size of the grains on the abrasive (*col. 3, l. 66 to col. 4, l. 7*), are shallow enough to be invisible to the naked eye (*col. 3, ll. 28-34*), wherein the scratches/holes are on the front and/or rear surfaces (*col. 5, ll. 21-29*) and wherein the width and depth of the scratches/holes arranged linearly vary depending on the kind and thickness of the sheet to be used (*col. 3, ll. 63-58*) for the purpose of providing a film that can easily be torn without changing the product (*col. 3, ll. 43-52*).

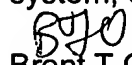
Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify Littmann's ('337) film with scratches/holes of the above noted depth, width/diameter and intervals as taught by Kai ('279) in order to provide a film that can easily be torn without changing the product.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2178. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Brent T O'Hern  
Examiner  
Art Unit 1772  
July 13, 2006

  
NASSER AHMAD  
PRIMARY EXAMINER 7/17/06